CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

December 14, 2006

Call to order: Chairman Liane Randolph called the monthly meeting of the Fair Political Practices Commission (Commission) to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. In addition to Chairman Randolph, Commissioners Sheridan Downey, Phil Blair, Gene Huguenin, and Ray Remy were present.

**Item #1. Public Comment.**

There was none.

**Consent Items #2, 3, and 4**

Commissioner Remy pulled Item Nos. 2, 3, and 4 from the consent calendar.

**Consent Item #5**

Commissioner Blair moved to approve Item 5 on the consent calendar.

**Item #5. Failure to Timely File Major Donor Campaign Statements:**

**a. In the Matter of Valley Pathology Medical Associates, Inc., FPPC No. 06-0566.**

**b. In the Matter of Professional Hospital Supply, Inc., FPPC No. 06-0568.**

**c. In the Matter of Jeffrey O. Henley, FPPC No. 06-0631.**

**d. In the Matter of M-E Engineers, Inc., FPPC No. 06-0632.**

**e. In the Matter of KPFF Consulting Engineers, FPPC No. 06-0633.**

**f. In the Matter of Anshen & Allen Architects, Inc., FPPC No. 06-0634.**

**g. In the Matter of Alex Alexandrou, FPPC No. 06-0692.**

**h. In the Matter of Christopher Albrecht, FPPC No. 06-0867.**

Commissioner Huguenin seconded the motion. Commissioners Downey, Huguenin, Remy, Blair and Chairman Randolph supported the motion, which carried with a 5-0 vote.

**ITEMS PULLED FROM CONSENT**

**Item #2. In the Matter of International Brotherhood of Electrical Workers Committee on Political Education, Sponsored by International Brotherhood of Electrical Workers; Edwin E. Hill: and Jeremiah J. O'Connor; FPPC No. 05/773.**

**Item #3. In the Matter of Carole Migden, Carole Migden Leadership Committee, and Roger Sanders, FPPC No. 04/302.**

**Item #4. In the Matter of Carole Migden, Friends of Carole Migden, and Roger Sanders, FPPC No. 04/302.**

Commissioner Remy commented he was not opposed to the item before the Commission, but mentioned that it seemed to him, as Commissioner Downey raised at the last meeting, a rather substantial fee or fine for money laundering, e.g., for a $5,000 violation, the fine was $80,000. He stated that in a tremendous pattern of continued violation over a long period of time, while he certainly votes for what is before the Commission today, he would hope that either the staff would take note or the record would reflect that if similar violations from these parties are repeated, and that the staff would impose the maximum fine because this is a pattern that the laws have been violated with some degree of disrespect.

Enforcement Division Chief William Williams advised the Commission that the Enforcement Division would take note of Commissioner Remy's comments, adding that they do consider patterns of violations to be an aggravating factor and when prior enforcements actions against people are taken, especially as significant as the ones under discussion, they will take those into consideration should there be any further enforcement actions with these same parties.

Commissioner Remy moved to approve Items 2, 3, and 4, asking that the record reflect that these parties are in jeopardy of the maximum penalties if there are continued violations.

Commissioner Downey seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

Commissioner Blair added the fines need to be high enough that it is not easier to ask for forgiveness than it is permission – that they do not go forward doing something knowing they will be fined, but the fine is much less than the benefit of doing it wrong. They need to be painful fines.

Chairman Randolph agreed saying the cases demonstrate that it is very important to have proper systems in place to ensure full compliance and that it needs to be taken seriously.

**ACTION ITEMS**

**Item #6. Adoption of Proposed Revolving Door Regulation 18746.3 (Section 87406.3).**

Brian Lau presented proposed regulation 18746.3 for adoption. The proposed regulation was presented to interpret section 87406.3. Similar to the one-year ban for state officials in section 87406, the local one-year ban prohibits former local officials from communicating with their former agency to influence certain actions and proceedings if the communication is made in representation of another person and for compensation. Despite the local one-year ban's similarities to the state one-year ban, there are three key issues with the local one-year ban addressed by the proposed regulation, including which officials are covered by the ban, whether local officials representing their own personal interests are excluded from the ban, and the scope of the term "administrative action," which under section 87406.3 is defined to included both "quasi-legislative" and "quasi-judicial proceedings". He stated that staff's analysis of these three issues remains unchanged since the Prenotice presentation. As presented, proposed regulation 18746.3 contained two revisions since the Prenotice presentation, which were both previously discussed. First, as recommended by Commissioner Downey, subdivision (b)(3) had been redrafted to provide that payments made for necessary travel meals and accommodations in connection with voluntary services are not considered compensation. While not intended to alter the exception for necessary travel meals and accommodations, as found in the state one-year ban, the revised language provides a clearer articulation of the exception. Second, staff added language to subdivision (a)(4) to clarify that the ban applies to general managers or chief administrative officers of air pollution districts in addition to the specific one-year ban for these districts provided in section 87406.1. Staff proposed adopting regulation 18746.3 with one minor correction to page 1, line 11, which should read "air quality management district," and not "air quality control district".

Chairman Randolph called for questions.

Commissioner Remy commented that he understood that the legislation created the requirements for the regulation. He was concerned that the statute treats local government officials in a very uneven way. For example, one can be a police chief in a big city and not be covered, while an elected Sheriff in a little, tiny county is covered. He was concerned with the inequities and inaccuracies in the way the legislation was drafted. Commissioner Remy hoped if that if the Commission adopted the regulation, the Supervisors' Association, the Special District Association, and the League of California Cities could be contacted to determine how, after a year of its implementation, the regulation was working and whether the Commission may need to seek legislative cleanup to make the system work better.

Mr. Lau responded that Commissioner Remy's comments would be noted.

Chairman Randolph added that Mark Krausse, as the Commission's legislative person, could make a note of Commissioner Remy's comments, keeping an eye on how things go, and perhaps the Commission could revisit this issue in about a year or so.

Commissioner Remy moved to approve Item 6.

Commissioner Blair seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

**Item #7. Adoption of Amendments to the "Public Generally" Exception to the Conflict-of-Interest Provisions — Regulation 18707.1.**

Chairman Randolph opened this item for discussion.

William Lenkeit from the Legal Division advised the Commission that this item, which was up for adoption, involved proposed amendments to regulations concerning the public generally exception to the conflict-of-interest provisions of the Act. At its November meeting, the Commission adopted proposed regulation 18707.10, creating a new small jurisdictions public generally exception and directed staff to return to the December meeting with the proposed amendments to regulation 18707.1. Additionally, in response to comments received from Mike Martello, representing the League of Cities, the Commission asked staff to develop language addressing his concerns that a method be created allowing officials to simply count, within the significant segment of properties affected, any properties affected in substantially the same manner as the official's property, without regard to the number of property owners for each property. Decision Point 1 addresses that concern. He continued saying that under the language presented in Decision Point 1, while the official would still need to meet one of the threshold's identified for a significant segment of property owners, and not properties, the official would be allowed the option of counting each residential property as being owed by one property owner, as long as the official counted himself/herself as the sole owner of his/her property. In other words, even if an official owns a fractional interest in his/her property, the official would consider the total financial affect on that property as if he/she was the sole owner. Using this procedure, as long as the significant segment threshold was met, the official could then directly compare property to property without the need to determine ownership interest in each of the properties compared.

Chairman Randolph called for any questions to Mr. Lenkeit on this item.

Commissioner Downey referred the Commission to page 2 of the regulation, at lines 5 and 6, to address a minor drafting concern relating to the reference made to "this" subdivision. He queried whether this referred to subdivision small "b" or whether it was "b1", large b?

Luisa Menchaca, General Counsel, responded that it would be "2(b)(1)(B)."

Commissioner Downey wondered whether there might not be a specific reference to that. Commissioner Downey continued to make a suggestion to line 6, which presently reads: "The official may choose to count each residential property affected as being owned by one property owner if the official only counts himself." Commissioner Downey suggested striking the word "only" and inserting "if and only if the official counts himself or herself as the sole owner." Mr. Lenkeit agreed with Commissioner Downey that this sounded better. Commissioner Downey commented further that, substantively, he was happy with the regulation.

Chairman Randolph called for any public comment.

Michael Martello, on behalf of the City Attorney's FPPC Committee, remarked that, substantively, they are happy as well. They appreciate the staff work, the quick turnaround, and, particularly in the staff report, the example given gave them a good test of it and sparked a good dialogue about it. He commented they were very much in support of all the changes.

Chairman Randolph again called for any other public comment on this item.

There were no further comments.

Commissioner Blair moved to approve the amendments in Item 7 with a specific reference to the actual subdivision and with the phrase "if and only if" inserted into line 6, as described by Commissioner Downey.

Commissioner Huguenin seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

**Item #8. Adoption of Regulations 18530.3 (Mixed Federal and State Expenditures by Political Party Committees) and 18534 (Hard and Soft Money Accounts).**

Chairman Randolph opened this item for discussion.

Senior Commission Counsel Larry Woodlock discussed proposed regulation 18530.3, which articulates rules for mixed federal and state campaign spending by political party committees. Mr. Woodlock stated that in September, the Commission directed staff to prepare a regulation based on draft language submitted by Mr. Bell, with the addition of a sentence relating to the applicability of the contribution limits of 18530.3 to certain contributions to Levin funds. Mr. Woodlock explained that Attachment 1 was the resulting regulation and Attachment 2 was the marked-up version, illustrating how staff got to Attachment 1. Mr. Woodlock further explained that the regulation presently up for adoption contained an "option 2," which was not considered at the last meeting, but seemed to be a good idea to staff to submit to the Commission for its consideration. He stated staff had received comment letters from both Mr. Bell and Mr. Zakson on this regulation.

Chairman Randolph asked Mr. Woodlock to briefly discuss the comment letters received on regulation 18530.3.

Mr. Woodlock advised that a comment letter was received from Mr. Bell, who seemed to approve of option 2. In that letter, Mr. Bell indicates he cannot find any reference to the Commission in his notes directing staff to come back with the last sentence of paragraph (a). Mr. Woodlock stated that he could not blame Mr. Bell for this as it was a long, two-hour session, with this regulation occupying an hour of it. Mr. Woodlock stated that this fact was also not obvious in the minutes as the minutes were not available when Mr. Woodlock wrote the memo in October; he listened to the tapes. Mr. Woodlock went on to state that Mr. Zakson, in his letter, complained that when a committee gets a contribution, they often do not know what the donor

wanted. Mr. Woodlock advised that the contribution limit being dealt with in section 85303 applies only to contributions limits made for a certain purpose. Mr. Woodlock interpreted this letter to suggest that a committee's gears will grind to a halt if "they get a check that does not have an express statement of purpose written by the donor." As explained in the memorandum, the contribution limit applies regardless of whose purpose is being spoken about. If the donor earmarks the check, "please use this check to make contributions to candidates for state elective office," and the recipient honors the wishes of the donor, it will go into the all purpose account. If there is no such direction, the committee itself will decide what purpose they are going to use the check for. Staff assumes the committee is competent to recognize its own purpose – the purpose being determined by which account the check goes into. Mr. Woodlock stated that staff does not really think there is much of a problem when a committee receives a check that is not earmarked and becomes troubled over which account to put it into. Staff believes the committee can make up its own mind.

Mr. Woodlock continued by stating that Mr. Zakson also worries about difficulties in identifying expenditures made by the committee for the purpose of supporting or defeating state or local candidates. Mr. Woodlock supposed that in principle there might be a problem, but he did not really see a practical problem because we're discussing the committee's own expenditures, and the committee ought to be able to identify its own purposes.

Chairman Randolph called for any questions before accepting any public comments. There were none.

Chairman Randolph called for public comments on this item.

Chuck Bell, of Bell, McAndrews, and Hiltachk, disclosed there had been a lot of comment on this item and that, having submitted a very brief letter, did not intend much further than saying that he thought option 2 was better than option 1. He stated that under the Bipartisan Campaign Reform Act, there is a definition of federal election activity. Included under that are payments made for communications that promote, support, attack, or oppose federal candidates. For example, when there is a mixed communication endorsing both federal and state candidates, or measures, the law requires the use of specified federal funds; in this case, hard federal dollars, not Levin dollars. By limiting subparagraph (b) to Levin dollars, the most important category of expenses paid from federal accounts that would be used to support state or local candidates is missed. This, he stated, was his reason for preferring the broader term, which would ultimately create "less head-scratching" among those having to comply with this once it is adopted.

Mr. Bell continued with the second point raised in his letter – the question of whether the Commission had actually directed staff to add the last sentence of paragraph (a). He commented he could not find it, nor could he recall it. He was not convinced that, as formulated, it would present much of a problem as, generally speaking, these contributions are not raised for the purpose of making contributions to State candidates, but, rather, they are raised for a specified federal purpose. His concern was that it appeared to be heading back in the direction of applying contribution limits to these contributions made to federal accounts on an "after-the-fact" basis. He stated it was a potential problem because, for example, if a $27,900 or $30,200 maximum contribution is made to a State candidate account and then some federal contributions is

subsequently determined to be allocable, obviously there is a problem – and not a problem that a committee can do much about as it is compelled to use the federal money for that purpose. He did not think it would be likely to occur often and so this was not a strong objection on his part to the paragraph, itself.

Chairman Randolph agreed by adding that intellectually she thinks it is correct that that limit would apply for a contribution made for the purpose in practice of supporting or defeating a State candidate, but it does not seem that it would generally happen.

Mr. Bell stated that their concern is that donors have enough of a challenge dealing with major donor reporting, late contribution reporting, and 24-hour reporting during the late contribution period – even when given paper notice of that. He commented that there would be many people on the agenda calendar who violate the laws by accident simply because they do not know that they had a report due.

Lance Olson, representing the California Democratic Party, stated he was in support of option 2, as well as agreeing with the staff and Mr. Bell with respect to that option. He had one suggested change to the language. Referring the Commission to page 2, line 1 of the regulation, Mr. Olson suggested the insertion of the word "independent" expenditure where it states "such contribution or expenditure" to stay consistent with language on page 1, line 24, where it states "contribution or independent expenditure." He believes that is what was intended. Pursuant to a discussion with Mr. Woodlock, Mr. Olson did not believe Mr. Woodlock had any objection to that change.

Mr. Woodlock agreed with Mr. Olson that the insertion of the word "independent" would make it clearer.

Mr. Olson hoped they would not have to return to this regulation.

Chairman Randolph agreed and called for any further comments.

Chairman Randolph asked Ms. Menchaca whether discussion for the adoption of regulation 18530.3 should be completed before moving on to the adoption of regulation 18534. Ms. Menchaca responded affirmatively.

Chairman Randolph stated she was fine with the regulation as drafted, that she agreed with option 2, and that she agreed with the insertion of the word "independent" on page 2, line 1. She called for further questions or comments. There were none.

Commissioner Downey moved to approve the regulation with option 2 and adding the word "independent" on page 2, line 1.

Commissioner Blair seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

Chairman Randolph directed Mr. Woodlock to continue with regulation 18534.

Mr. Woodlock stated that regulation 18534, also up for adoption, implements the contribution limits of section 85303. It is a little broader in scope than the previous regulation because it is not confined to the activities of political party committees; it has to do with contributions made to all forms of committees. The problem at the root of this regulation is that section 85303 limits contributions made for one purpose, but imposes no limit on contributions to committees when those contributions are made for all other purposes. He stated that staff's goal is to segregate funds donated under limits of 85303 from funds that are not subject to any limit at all, so that compliance with section 85303 can be monitored. One new feature of this regulation is in subdivision (c), third sentence from the bottom of the page – a new sentence inserted following a suggestion from the Enforcement Division. Although it should be implicit that the Act's general recordkeeping requirements apply to all regulations, the Enforcement Division thought it might be a useful reminder to make it explicit that the Act's general recordkeeping requirements also apply here. Staff thought it was worthwhile to invest a few words to make that reminder explicit.

Mr. Woodlock continued stating subdivision (d) is an entirely new provision. He reminded the Commission of some debate at its last meeting over the problem of earmarking, e.g., who gets to earmark, what happens if it is earmarked in a way that is embarrassing for the committee, etc. He stated that staff later realized that earmarking was not really the problem. Again, it is the purpose of the contribution and the purpose can be the purpose of the donor or the recipient if the donor's purpose is not expressed. It was staff's conclusion that this agency should not get between the donor and the recipient if they are disputing the purpose, but, rather, this agency should look at which account the contribution is going into to determine its purpose – once again, worrying about compliance with section 85303. Mr. Woodlock explained that subdivision (d) was the controversial provision relative to earmarking, e.g., how to tell who earmarked what and when. Staff took that language out as unnecessary and substituted a provision which makes explicit the implication of subdivision (a); namely, that contributions from restricted-use accounts cannot be made for purposes reserved to contributions from all purpose accounts. Mr. Woodlock thought this was uncontroversial and should simplify the regulation, eliminating the dispute from the last Commission meeting. He advised the Commission if they wanted to use it for a purpose limited by regulation 85303, "put it in that account and you're done, as far as we're concerned." Mr. Woodlock stated that also noted in that provision was that the purpose of 85303 includes contributions to fundraisers, where the goal is to raise money to make contributions to candidates. He did not think that the parties agree with that interpretation, which causes a point of controversy as staff has introduced into subdivision (d). After reviewing the regulation, Mr. Woodlock stated he thought subdivision (e) was no longer necessary. He suggested it be dropped due to its being extra verbiage.

Mr. Woodlock continued stating he had already noted one likely controversy – the application of the section 85303 contribution to candidate fundraisers. He stated he received a letter from Mr. Zakson (1) asking for an exception for small committees and offering a suggested definition of small committees from the cost and inconvenience of segregated bank accounts; and (2) arguing that in the absence of a statutory mandate, any reference to a deadline for making transfers from limited use to all-purpose accounts be taken out. In this, he is in conflict with Ms. Boling, because Ms. Boling saw enough of a statutory mandate the last time to argue for a 30-day limit instead of a 14-day limit. There are people out there who think it ought to be possible to delay further transfers or decisionmaking when moving money from one bank

account to another. The staff opposes that because it thinks 14 days is enough and we require a 14-day limit on similar decisions elsewhere in the Act, and are fearful in particular that a 30-day decision point here would cause confusion among the same people we are otherwise seeking to assist.

Chairman Randolph called for any questions before hearing public comments.

Commissioner Downey stated he agreed with Mr. Woodlock's suggestion relating to having a duplicate of subdivision (e). He thinks it should just go away and "just renumber the next two." He stated it seems to completely duplicate subdivision (b) and its mandate. Chairman Randolph agreed.

Mr. Woodlock commented that this regulation had been through too many drafts.

Mr. Bell had two concerns about this regulation. The first related to subdivision (d) and the last clause of that proposed addition, which states "or to raise funds which will be used for either of these purposes." He states this would apply to all committees and not just political party committees. He thought his concern about it, for the political party committees as well as the regular political committees, was that essentially this cements in a regulation – the issue he had raised in Agenda Item 9 and discussed in a letter. His first concern was procedural: by adopting subdivision (d) with this provision in it, Mr. Woodlock has dealt with the question that was raised in his request for another regulation, and will have cemented it into the regulation without the opportunity for much comment on it – a provision that states "fundraising expenses of sponsored packs and, presumably, party committees as well, for the purpose of raising money for their State candidate account, are subject to contribution limits." Mr. Bell was not sure that it was really as important for party committee as it is for a PAC and for sponsored payments of fundraising expenses of the PAC and, therefore, would oppose its inclusion here or ask it not be included at this time, subject to a review of the broader issue when it is again taken up. He urged the Commission to take the issue up sooner than is reflected on their current regulatory calendar.

Mr. Bell raised another point relating to the second sentence in subdivision (f) which states that "any such transfers will not be considered in determining whether a person contributing to the committee has or has not exceeded the contribution limits." He stated that the way the regulation is proposed, a 14-day "use it or lose it" requirement is locked in, or 14-day period to resolve any question about whether a contributor has exceeded the contribution limits. It was his understanding, that if a committee subsequently determined, for whatever reason – it could be the name of the contributor, receiving two contributions from an affiliate, or other variants where a committee discovered, after 14 days of receipt of the initial contribution, that a contribution appeared to violate the contribution limits. Mr. Bell interpreted that to mean that there was no cure for either the committee receiving the contribution or for the contributor. Mr. Bell had suggested once before, that the Commission look at the provisions of the Federal Election Commission's regulations which permit contributors to either re-designate from election to election or reattribute to a spouse – that is, if it was a contribution made by one spouse who had exceeded the contribution limits, which Mr. Bell thought was a sensible approach taken by the FEC to avoid finding violations of the law that can be reasonably resolved upon indication of a different intent. Mr. Bell stated he did not see that in this regulation and it is kind of a "gotcha"

situation as it is set up. He believes it was inadvertent and not intentional. His proposal, he states, is basically the FEC approach.

Chairman Randolph asked how this was presently being handled. She stated her understanding was that the 14 days came from the basic "you can return a contribution within 14 days" rule. She commented this issue would probably always come up – anytime there are limits where one might get a contribution and realize later it is in violation of the limits.

Mr. Bell suggested asking Carla Wardlow what her thoughts were. He stated his understanding is that if an error is discovered, one should be permitted to correct that error without consequence to the donor or the recipient, regardless of the 14 days. He does not know that the 14-day provision in the current law prohibits one from adopting a similar approach to the FEC approach. He does not think the Commission is trying to enforce the law, but also deal with it in a reasonable way. He does not think the 14-day rule in existing law is intended to be a "gotcha" provision either.

Mr. Woodlock responded by stating that this is indistinguishable from the 14-day rule on returning contributions. He states it would or could lead to an enforcement action and so it imposes a certain amount of diligence on both the donor and the recipient committee to know they have violated a contribution limit. He is fearful that if taken out, the Commission is giving people carte blanche to run a contribution through a different name or, generally, just cause confusion and to back out of it and evade a penalty if it is caught years later in an audit. He stated it is a problem. He did not think this was any more harsh than the return contribution regulation that the Commission has had for many years. He stated it does impose a requirement of diligence on the parties, but that is all it does. He suggested if the Commission was concerned about this, there was an intermediate ground between keeping this language as it is and just throwing it out all together and that would be to change the language to "transfers will not be considered" to maybe "need not be considered" to provide some room for a person to make an equitable argument in cases where it is appropriate without making late-discovered shenanigans completely unenforceable.

Ms. Menchaca added she agreed with Mr. Woodlock's suggestions and also Mr. Bell's comment that it was not intended to be more restrictive than it has been read. She stated that with respect to the 14-day issue, she would note that one of the regulatory projects proposed for 2007 involves looking at regulation 18531 on a related issue, but certainly there as well – part of the reason for that was also for the Commission to be able to look at how that regulation was working in the context of Proposition 34. Her recommendation was that if the Commission is going to adopt this regulation that it be made consistent with what is currently in that regulation and to that extent then, the 14-day issue and the other issues related to that as Mr. Bell suggested, the Commission can look at those as well and come back and revise regulations appropriately.

Chairman Randolph commented that her thinking was that if it was meant to parallel the existing 14-day Rule, the Commission's "in practice" interpretation of reasonableness would also apply here as well. In looking at cases, the Enforcement Division would not necessarily slam a door at a particular time if it is clear from the circumstances that it was a mistake and they were working

at fixing it. She stated she was comfortable with the language as it is assuming it would be operating in the same way as the 14-day rule has operated for quite some time.

Mr. Woodlock stated that it was staff's intention to create an enforceable rule here, but it was not their intention to dig a tiger trap, either, or to make this rule more difficult or inflexible than the rule under regulation 18531 is now.

Chairman Randolph agreed. She asked about the last clause in (d) relating to raising funds. She thought she would be fine with taking that out for now and subsuming that into the upcoming regulation project, which could mean coming back and amending this regulation if the Commission goes in that direction – but that would not be anything to preclude that.

Mr. Woodlock responded by stating that the Commission could not put this language into "suspended animation." It would have to be re-noticed and go through rulemaking again. He stated it could be done if that was the Commission's pleasure, adding that it is at least a discrete clause that can be crossed out. He stated he thought it was a straight-forward interpretation of the language of section 85303 and consistent with the Legal Division's current position on 18215(c)(16) and the Commission's 1996 decision twice rejecting Mr. Bell's suggestions for a relaxed rule for sponsored committees. There is a lot to be said for leaving this language in.

Mr. Bell had one further comment to Mr. Woodlock's comments. He thought the Appellate Court's decision in the *Citizens' to Save California* case does put a real cloud over this interpretation of what 85303(a) and the provision relating to raising funds means. It did not directly address that issue, but it seemed to Mr. Bell that when the Court stated there, in addressing the Commission's position and rejecting its position that contributions to a candidate means contributions to a candidate – not to, in that case, a candidate-controlled ballot committee – that it has raised a concern about 85303(a), which he thinks merits more fully consideration in a separate proceeding.

Mr. Woodlock responded by stating he was not in agreement with Mr. Bell's comments at all.

Chairman Randolph stated she was not in agreement with it either, but she did agree with the notion that this issue is important enough that discussing it independently of this regulation would probably be appropriate.

Chairman Randolph called for further public comments on this regulation.

Commissioner Downey stated to Mr. Olson that what was being discussed with respect to subdivision (d) was eliminating the last phrase after the comma following office and just slip in a period after State office.

Chairman Randolph agreed, adding they would then have to put in another "or."

Mr. Olson stated that he would just "hold his fire" if that was, in fact, what the Commission is going to do. He stated that if the Commission is going to debate it, he wants to have an opportunity to talk about that.

Chairman Randolph agreed he could come back to the podium.

Mr. Woodlock stated he wanted an opportunity to speak in rebuttal again.

Mr. Olson commented that the same was true of subdivision (e) and he now understood that the proposal was to take (e) out because of it being redundant of (b). He stated that if that was the case, that would eliminate his concern with that paragraph.

Mr. Olson continued with discussion relating to the naming of these accounts. He stated that as he listened to Mr. Bell use the words "candidate support account" and "non-candidate support account" instead of "restricted" and "all purpose," that there was nothing intuitive in his view about "restricted" and "all purpose." He pointed out that the Commission, in this regulation, has a requirement that on checks the words are "restricted" or "all purpose." He stated he thought the purpose of that was so that when the party committee or another PAC gets the contribution from another PAC, they know which account it is coming out of. He believed that would be the intent of requiring one to put those words on a check. He was not sure what message that actually sends to have the word "restricted." In the world he operates in, the words "candidate support account" and "non-candidate support account" are the words commonly used – particularly "candidate support account because that is the account out of which expenditures in support or contributions in support of candidates.

Chairman Randolph asked if that was not what the Commission started with.

Mr. Olson agreed, but did not know and was wondering – and said Mr. Woodlock would probably say he was the one that objected to it, but Mr. Olson thinks it was Ms. Boling who objected, if he was not mistaken. He stated he never understood what was wrong with "candidate support account."

Chairman Randolph responded that she thought the theory was that it would make those people nervous who were using it for purposes having nothing to do with state candidates; e.g., using a non-candidate support account for contributions to local candidates.

Mr. Olson stated if it helped with State candidate support account, he supposed he could do that. If you end up with a restricted all-purpose, it's not the end of the world. It seemed to Mr. Olson not terribly instructive to people who were going to receive those checks if you're going to require them to print it on the check.

Mr. Woodlock responded that staff's view is that it does not matter what name you select. Some people are going to have difficulties with it. Staff chose the names that created the least amount of difficulty.

Chairman Randolph added that names are a problem, but her theory is that people get used to whatever you call them eventually. She was fine with the names the Commission has. She asked for further comments on this regulation. There were none.

Chairman Randolph asked about the issue relating to using funds to raise funds. She thought that issue should be set aside, asking for any objections.

Commissioner Downey agreed with Chairman Randolph that the issue should be set aside, adding that although he thought it was wonderful that staff had a nice, firm opinion on it, the issue did need to be set out there separately.

Chairman Randolph stated that on lines 6 and 7, the language would have to say "candidates for elective State office or to make contributions to other committees for the purpose of making contributions to candidates for elective State office, period." She was fine with eliminating subdivision (e) because it is duplicative and renumbering (f) to (e), (g) to (f). She was fine with Mr. Woodlock's suggested change to line 15 of "[a]ny such transfers, however, need not be considered in determining whether any person contributing to the community has or has not exceeded annual contribution limits." She was not certain that it entirely addressed the concern out there, but she would prefer to keep that language in. She asked if there was any objection in changing "will" to "need."

Commissioner Huguenin did not have any objection.

Commissioner Downey responded he would like to keep it the way it is – "will not."

Chairman Randolph asked if there was any objection to keeping it "will." She asked for further explanation of the implications of "need not."

Mr. Woodlock responded by saying that "you can, but don't have to." In other words, it inserts a measure of discretion which is not present on the face of the language "will" – which is a mandatory provision.

Commissioner Remy stated his interpretation of Mr. Bell's comment was that there had been some concern on the unintentional violation and that at least there be some area giving some possibility of a review of that issue. It seemed to Commissioner Remy that the word "need" probably does not go as far as Mr. Bell would like, but it does give at least some ability for somebody to look at it. Commissioner Remy stated he favored "need" over "will."

Chairman Randolph agreed to liking "need" over "will."

Commissioner Huguenin also agreed with Chairman Randolph.

Chairman Randolph asked if there were any further comments or questions on this regulation. There were none.

Commissioner Remy moved to approve regulation 18534 deleting the phrase on line 8, deleting subdivision (e), renumbering (f) and (g), changing "will" on line 15 to "need."

Commissioner Huguenin seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

**Item #9. Approval of 2007 Regulatory Priorities.**

Chairman Randolph agreed with the issue raised by Mr. Bell that moving the fund raising expenses regulation project earlier in the calendar would probably be good.

John Wallace, Assistant General Counsel, responded by stating that staff is not opposed to moving it up, but staff would like to reserve making the decision as to which items get pushed back. He advised that the January memos were already in review, adding that January is not optimal. He stated staff would let the Commission know in March as they will be coming back for a March update.

Chairman Randolph asked whether there was the option to get it going in February, March, and April.

Mr. Wallace responded that if the Chairman Randolph agreed that an Interested Persons' (IP) meeting was needed, which staff would be applying for this item, the issue could be raised in February, and still report back on it in March.

Ms. Menchaca commented that in terms of the amount of research and work staff would need to do to get to that point would probably be too early for the IP. This would give staff a couple of months to do research, review the issues, and frame the issues and questions needing to be addressed. She stated that perhaps the earliest, if possible, for an IP meeting would be March. A month is usually skipped and then with the pre-notice discussion, that would take us to May and July.

Chairman Randolph agreed to do the IP in March.

Mr. Wallace directed the Commission's attention to a comment letter received from Mr. McCutcheon relating to the membership communication item which was added in response to Commissioner Huguenin's suggestion. He stated that the California Catholic Conference was requesting expansion of the exception for membership communications to apply to, basically, all parishioners of Catholic churches. He stated the Legal Division has not reviewed this issue and, therefore, is not certain if that would be a recommendation staff would make to the Commission. He did, however, think it was an issue that would fit into Commissioner Huguenin's project and offered that the Legal Division could review the issue and possibly merge it in, if that would be acceptable to the Commission.

Chairman Randolph agreed, stating it made sense.

Mr. Wallace requested for approval of the calendar.

Chairman Randolph asked for further questions before public comments on the calendar.

Commissioner Remy asked the value for one-hour of staff time.

Mark Krausse, Executive Director, responded that if he cited $100, that would probably include Administrative and other costs, such as overhead.

Commissioner Remy asked if 3,000 or 3,500 staff hours were more or less what has been allocated within the budget for this sort of function.

Ms. Menchaca responded that she believed it was at least one-half of a position more due to increased staff in the Legal Division as well. She stated that ordinarily two positions would be dedicated to this function.

Mr. Krausse stated that because of the growth and improvement in the 2006 budget, more than that has been allocated. He pointed out there should be a visible improvement in advise letters meeting the 21-day timeline, as well as being able to handle the workload under discussion.

Commissioner Remy stated calculations were helpful when legislators submit bills. We may think it is a minimal thing, however, if it is 240 hours that we think it would take to do some implementation of the legislation, it is useful to know what that costs out when we are discussing our budget needs. All these minimal things add up at $100 or $150 an hour.

Chairman Randolph asked for further public comments, if any. There were none.

Commissioner Blair moved to approve the 2007 regulatory priorities with the shift of Item 16 further up in the calendar with an IP in March.

Mr. Wallace clarified that this would also include the addition of the Catholic conference into that other item. Chairman Randolph agreed.

Commissioner Downey asked if this would apply to any similar group having a broad communication responsibility to parishioners or members.

Mr. Wallace commented that at this point, as he had stated earlier, that staff had not looked at this item in depth to determine whether they were agreeable to expansion; but, to the extent that there would be expansion, it would be a general one, not a specific one.

Commissioner Huguenin seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

## APPROVAL OF FORMS AND MANUALS

### Item #10. Approval of Statement of Economic Interests Forms and Instructions for 2006/07.

Chairman Randolph announced there was nothing to be added to the written memo. Carla Wardlow, Technical Assistance Division, agreed.

Chairman Randolph asked if there were any further comments or questions on this item from the Commission. There were none. She asked if there were any public comments on this item. There were none.

Chairman Randolph stated she liked the new format with the appendices.

Commissioner Downey moved to approve the revised SEI forms and instructions.

Commissioner Blair seconded the motion. Commissioners Downey, Blair, Huguenin, Remy, and Chairman Randolph supported the motion, which passed with a 5-0 vote.

## DISCUSSION ITEMS

### Item #11. Diversion Program.

Chairman Randolph opened up discussion on Item 11, the follow-up memo on the Diversion Program, stating the goal with this memo was to give staff specific direction moving forward about whether it wants to bring back a regulation to implement a diversion program, or an expanded streamline program as an alternative to a diversion program, or, alternatively, do nothing.

Acting Enforcement Division Chief William L. Williams, Jr. , stated that at the Commission's October 24 meeting, staff presented outlines of a diversion Program to the Commission and also orally presented the option of broadening the Streamline Programs in lieu of a Diversion Program. At that meeting, the Commission requested estimates of staff time that might be saved with the Diversion Program be presented at its December meeting, as well as the presentation of the Stream-lined option in a more definitive form. Mr. Williams stated his memorandum presented at this meeting would attempt to do this. Addressing the issue of potential staff time savings with a Diversion Program as an offset against the staff time that would be used to run the Diversion Program, Mr. Williams stated staff had looked at only the two static threshold options – $30,000 and $50,0000 thresholds – because there would have been negligible participation in any diversion program based upon the percentage threshold that staff attempted to use. He stated staff was only looking at Option 1, which is the $30,000 threshold, and Option 2, which is the $50,000 maximum threshold. He advised they had used the 2004 case data, noting the estimates were very rough as indicated by the footnote in the memorandum, which reflects cases that use attorney and investigator time, setting forth that only 13 of the 75 cases would have had staff time involved that would be saved. In his mind, this skews their use of the 70 percent as against the total time, but nonetheless, it was used.

Mr. Williams indicated that staff determined that under Option 1 there would be 155 hours of staff time saved by virtue of referral to diversion; under Option 2 there would be 242 hours of staff time saved by virtue of referral to diversion. These savings would be an offset against the 156 hours of non-attorney time and 26 hours of attorney time associated with the ongoing operation of the program under Option 1 – which is what had been laid out in a previous memorandum – the 250 non-attorney hours and 200 attorney hours of startup for the program in

the Enforcement Division. He pointed out a typographical error in the memo which states that Technical Assistance had estimated 400 hours of startup. It had actually estimated 100 hours, but that was for very bare bones startup.

Mr. Williams explained that an expansion to the Streamline Program could be operated with much the same staff as we are operating the currently Streamline Program. It would take a lot less startup. There would be associated ongoing staff time use by virtue of the fact that the volume of the Streamline Program is being increased as a whole new element is added to them. There would not be the need for the new training programs or the staff monitoring and certification of the completion of training programs that would go with the Diversion Program. Comparing the substantive nature of an expanded Streamline Program versus a Diversion Program, Mr. Williams stated that while the Diversion Program certainly has lower penalties, it still does have a public punitive aspect that the Diversion Program would have certainly a much lesser, if any, punitive aspect to it. He added that they could, however, in an expanded Streamline Program – if the Commission so desired – send out materials and have an educational component in the expansion of the Streamline Program. The Commission would have pretty much the same decisions in front of it as far as maximum thresholds for participation in an expanded Streamline Program. They would look at the $30,000 and $50,000 as they seem to be pretty good thresholds. The $30,000 is attractive to them because it seems to mirror the potential, eventual change in the Major Donor Program that may or may not occur legislatively. Another decision that the Commission would have before it would be the types of violations that would be included in an expanded Streamlined Program. They believe those would have to be limited to non-filing violations because the secret of the Streamlined Program is that on an evidentiary basis you can just look at the filing history and determine whether something has or has not been done. If this was expanded to the more sophisticated types of violations, it would be difficult to maintain it in the Streamline format. In that regard, Mr. Williams stated that the Commission might want to determine the breath of the type of violations that would be included, such as semi-annuals, pre-elections, the LCRs, the 85309 filings and all the other different non-filing violations that might occur. Finally, Mr. Williams stated that it was the Commission's preference as to which way it wants to go: if it is diversion, then an authorize in regulation would be the next step; if it is an expansion of streamlined, that could be done in the same presentation manner as other amendments to the Streamlined Program through memorandum to the Commission and that could probably be done in a shorter timeframe.

Chairman Randolph thanked Mr. Williams. She continued stating that her preference was to move forward with the Diversion Program, using Option 2, the $50,000 threshold. She stated she preferred having a program that is a little more education-focused and which presents less of a "proof" issue than the Streamlined Program.

Chairman Randolph asked if there were any further comments or questions before hearing public comment, if any.

Commissioner Downey stated that the question he had in his mind was whether the Commission does nothing or whether they do diversion. He stated he has not been thoroughly convinced that the diversion is a great idea and wanted to hear others thoughts on this issue. The Commission's

overall goal, he said, is to produce, through education, the violations that occur. He then asked if the Diversion Program was designed to do that as opposed to what is currently being done.

Mr. Williams responded that from the enforcement point of view, the concern has been that the Diversion Program could become a potential time-consuming endeavor as it is a new program. Another concern is how much the participation is going to be. As he had stated earlier, all the figures given to the Commission were very rough. The bare bones training schedule laid out is *very* bare bones and any Diversion Program would probably have to be narrowed quite a bit in terms of violations for it to be effectively run without significant increases in training and staff. Mr. Williams stated that staff is generally leaning towards expansion of the Streamlined Programs, largely because they are tested. They feel that the Streamlined Programs are an effective educational tool and they are not just doing that "tongue in cheek" in terms of violation, but when someone has run afoul, as in the Major Donor Program or the LCR Program, they know in the future what their obligations are under those specific statutes. Again, Mr. Williams stated they are prepared to move forward with diversion if the Commission wants to move forward with diversion. They will make it work. The Streamlined Program would not be such a novelty; it would be just an expansion of things they have already had – actually, the expansion of the Streamlined Programs in this way is something that Mr. Williams thinks has been discussed before and is something that could probably be done in short order.

Commissioner Downey stated it was his notion that their Streamlined Program adopted just a few years back has been a rousing success from all that he has heard. His leaning was more toward the expansion into the tested waters, rather than the untested waters of the Diversion Program, if they did anything.

Chairman Randolph stated her concern about the Streamlined Program is that there is really no educational component to it. Obviously, once the rule is violated, you know it has been violated – but it is just that rule. In the Diversion Program, if the candidate is going to a seminar, the discussion will not be solely about that one rule. One or two hours will be spent learning about compliance to all the basic campaign rules. Chairman Randolph found that to be a little more attractive. As to the kinds of violations in this sort of expanded Streamlined Program, Chairman Randolph was not certain the Commission would know exactly what they would be. One idea behind the Diversion Program is to give the opportunity for people to be fear the process of the Political Reform Act. They would not only have all of the educational resources available, but they would also have the opportunity to learn from a violation, should they violate the law, rather than having it be a punitive experience or difficult process for what might be a relatively minor violation.

Commissioner Remy added that he originally was in support of the Diversion Program, but he no longer is at this stage. At first he thought it would save some money and, obviously, it appears it will not. When looking at the trade offs, at best it is a balance and will probably cost us more, at least in the short term to do diversion. There is no savings in terms of our budget. The second question is whether there is a broad public benefit that we do on the side of education, which the Chair has pointed out. When you look at the numbers, it is a relatively small group in the numbers and that group may choose not to do it. But then, he states, he hears, "But, we'll do it on a bare-bones basis in order to keep the cost down," and he is reminded of the Department of

Motor Vehicles where one can take a class to write off his/her violation. Commissioner Remy does not think that the general attitude of "I'll put my day in, be entertained, and get it over with" gets to the broad education value being sought, unless a quality program is done. Commissioner Remy remarked this doing this would not be cheap. He added that if the Commission wanders into diversion, they must wander into it and say, "We want to make it a program that people (1) choose to go to for obviously personal reasons – they don't want the public exposure of their violation – but, (2) they really do get something out of it in a broad basis. That means it would have to be a pretty darn good program and Commissioner Remy knows that will cost us more money and, further, it is too small of a pool. Commissioner Remy favored doing the Streamlined Program at $30,000 rather than $50,000 to see what sort of pool and experience we get and, if it proves to be of equal benefit, then the Commission can look at $50,000 afterwards.

Commissioner Blair agreed with Commissioner Remy. He asked if we would see the candidate going to the diversion class and would we see it being run like the traffic school example just used, or would the Campaign Manager, who was paid to know better, have to go to the diversion class.

Mr. Williams responded that we would anticipate seeing whoever was named as the main respondent – it could be the candidate or in some cases it could be treasurers – depending on the nature of the committees being dealt with. An issue to address would be whether you're looking at one person or multiple respondents. In terms of the training, it would be like traffic school.

Commissioner Blair asked if it would be held once a quarter, with the respondent flying in to this office and having the fine forgiven.

Mr. Williams stated that the 100 hours was based on a fairly bare bones where he thought there would be Southern and Northern California components with an attempt to just expand what is already done. The difficulty with that is that as diversion was laid out in the October memo, it was a bit broader than that simple expansion. There are a lot of other violations in there that might require some additional training, which would be part of the shake out of diversion to see what the true participation in it would be.

Commissioner Blair asked, "If you participated, your fine would be forgiven?"

Mr. Williams responded that if you participated, basically the enforcement would be a "nullity."

Chairman Randolph stated that one of the reasons the Commission wanted to look at the number of hours was to figure out if this was something that could be done with the Commission's existing resources. She stated she hears Commissioner Remy saying he is not comfortable this can be done with our existing resources. Another option is for the Commission, at some point in the future, to consider whether or not they would want to request funding for a specific program of this nature and have it be independently funded. In that way, it would not take any resources away from the existing enforcement program, but would be an "add on" that could be tried separately.

Commissioner Huguenin commented that, as the originator of the diversion program idea, he was reminded earlier when looking at agenda Item Nos. 3, 4, and 5, which are pretty hefty fines, north of $25,000 and just south of $50,000 each, that it is uncertain in his mind whether the people who had that string of failures that produced those fines would have, by some intervention of a training sort, which one might get in a diversion program or otherwise have changed their behavior. Perhaps not. He stated that sometimes we get things on our agenda that are clearly contrived ways around the rules and the Commission has to discipline pretty heavily. He is still in favor of exploring a diversion program. He said he gets the sense that there are not three votes for that today. He said he was certainly in favor of expanding the Streamlined Program, maybe with a test run as Commissioner Remy suggests. He would like the Commission to continue thinking about the Diversion Program option. He pointed out that perhaps it is possible to build a training component into every one of the Commission's settlements – or the streamlined settlements – leading me to conclude it might be possible to do it on all of them – that the way to get off the hook would be a smaller fine than it might be and some participation in some kind of "know what the rules are" experience, as a behavioral intervention, basically. He suggested the Commission continue to play around with these possibilities and perhaps ask the Legislature for a little special money to try something here. For now, however, Commissioner Huguenin is happy to have this matter go in the direction of an expanded Streamlined Program because of the fewer costs associated with getting that option up and running. He would like to continue to discuss with the Enforcement Division the possibility of building some training components into their settlements as a way of injecting future compliance into this enforcement business.

Chairman Randolph said, because it sounds like there is some consensus towards doing the expanded Streamline Program, she is fine with starting with $30,000 instead of $50,000. There was no disagreement from anyone else. She directed staff to prepare a Budget Change Proposal that would be a specific, stand-along proposal for a diversion program independent of our current resources.

Mr. Williams asked for direction, stating they had tried to set it out almost within the parameters of their current budget and trying to expand within that – thus, the bare-bones aspect.

Chairman Randolph responded by saying that the proposal would be for a full Diversion program, not a bare bones one.

Commissioner Remy asked whether a budget change proposal would be the only route or would there be the possibility of looking at a Legislative proposal having a budget component as a parallel.

Chairman Randolph stated that was a possible – probably the more difficult possibility, but it is essentially the same because the Legislature has to approve the budget proposal anyway.

Mr. Krausse added that it was the same, except that if a BCP makes it into the budget, the bill does not live or die on that proposal, whereas if you have a stand-alone bill, of course, it has a lot more of a target.

Chairman Randolph asked if there were any public comments on this item.

The Commission referred the item to staff for implementation consistent with the Commission's direction.

**Item #12. Executive Director's Report.**

Chairman Randolph opened up discussion on Item 12. There was nothing to add to the written report.

Chairman Randolph welcomed Mike Naple as this year's Executive Fellow.

**Item #13. Litigation Report.**

Chairman Randolph opened up discussion on Item 13.

Ms. Menchaca reported that the Third District Court of Appeal affirmed the preliminary injunction of the trial court in the *Citizens'* case.

## LEGISLATION

**Item #14. Legislative Report.**

Chairman Randolph opened up discussion on Item 14.

Whitney Barazoto, Legislative and Communications Coordinator, reported she had ten legislative proposals for the Commissions consideration. She gave a brief summary of all the information provided in the memos submitted to the Commission as follows:

> **Proposal 1: Filing Of Campaign Statements.** Currently candidates and committees must file two copies of each campaign statement with the candidate or the committee's county of domicile – which is, basically, the address where the committee is located. However, since treasurers often use a business address outside of the location where the actual candidate is, she suggests eliminating the reference to the committee's county of domicile and, instead, require the filing of statements in the candidate's county of domicile. The proposal would also reduce the two-copy filing requirement to one copy for local filing officers since these filing officers rarely have use for the second copy.

Ms. Barazoto asked if there were any questions. There were none.

> **Proposal 2: Definition of "Investment."** This would basically amend the definition of "investment" to specifically exclude defined benefit pension plans. It would codify an earlier opinion that concluded that employee payments made to a defined benefit pension plan is not considered an investment under the act.

Ms. Barazoto asked if there were any questions. There were none.

Commissioner Remy asked how defined contributions are covered in this.

Mr. Krausse explained that the definition of "investment" already excludes those, basically, mutual funds from securities in the Exchange Commission – those that are registered with the FCC under the Investment Company Act of 1940.

Ms. Barazoto continued:

> **Proposal 3: Political Party Communications Identifying State Candidates.** Under current law, when a political party pays for an issue advocacy communication that is made within 45 days of an election, and at the behest of a State candidate who is also clearly identified in the ad, the party must use only contribution limited funds. However, this restriction of using only contribution limited funds, or "restricted use" funds apply only when the coordinating candidate is the one identified in the ad. It does not apply in a situation where the ad identifies that candidate's opponent. This proposal would require that the political party contribution limit apply equally for these types of payments, regardless of whether the candidate or the opponent is identified in the ad.

Ms. Barazoto asked if there were any questions. There were none.

Ms. Barazoto continued:

> **Proposal 4: Reporting Of Contributions.** Currently some online reporting requirements that were added by Proposition 34 are inconsistent with the Act's other reporting requirements for contributions. One example is that paper reports of contributions do not need to include disclosure of contributions that were returned to the contributor prior to the reporting deadline. However, this same exception to the reporting requirement does not exist under the online filing provisions. This proposal would resolve this and some other inconsistencies that resulted from Proposition 34's additions.

Ms. Barazoto continued:

> **Proposal 5: Statements Of Economic Interest (SEI) Filed By Candidates For Elected Positions Designated In A Conflict Of Interest Code.** Currently there are two ways that an official may be required to file an SEI. The first is under section 87200 where positions are specifically listed; the second is under the conflict of interest code for designated filers. In the first category, candidates are also included. For those positions that are listed, the candidate must also file an SEI. In the second situation – the designated code filers – candidates for designated positions are not required to do that. In most cases, elected officials are covered by that first category, but there are few exceptions, so, in those cases, we are asking in this proposal to add the requirement that candidates for those designated positions also file a Statement of Economic Interest. Disclosure would be at the same level – in terms of jurisdiction – for which the incumbent candidate is reporting.

Ms. Barazoto continued:

> **Proposal 6: Travel Payments by Nonprofit Organizations.** Nonprofits are allowed to pay for a public official's expenses in certain situations. Currently, the only method that is allowed to do this is by reimbursement. This proposal would allow the nonprofit to pay the expense directly, instead of having the official make the payment and then reimburse the official. This proposal would allow the nonprofit to make that payment.

Commissioner Huguenin asked if Ms. Barazoto could describe for him the circumstances under which this rule would come into operation.

Ms. Barazoto responded that it was her understanding that if a public official is going to provide a speech or do something for the nonprofit, then, oftentimes, travels, per diem, and expenses would be covered by the nonprofit.

Commissioner Huguenin asked if this only applies to charitable 501(c)(3) organizations as opposed to (c)(5), (c)(6), and (c)(7) organizations, which are represented well in this room.

Ms. Barazoto responded in the affirmative.

Ms. Barazoto continued:

> **Proposal 7** consists of three technical amendments basically dealing with obsolete references that have since been repealed.

Ms. Barazoto asked if there were any questions. There were none.

Ms. Barazoto continued stating that the last three proposals are reintroductions of bills that they were unable to pass last year. The Commission approved these concepts at the November 2005 meeting and Ms. Barazoto expressed that they would like to proceed with them again. The first of the three, dealing with auditing, was amended by the author before its first committee hearing. They would like to reintroduce it and allow the bill to move further along in the process. The other two had bipartisan support in both houses, but were vetoed by the Governor. She believes there is a good chance that these bills may be passed this year.

Chairman Randolph asked if there were any questions or comments on the proposed legislation. There were none. Chairman Randolph then asked if there was any public comment on the proposed legislation. There was none. The item was referred to staff for implementation.

Chairman Randolph advised that the Commission's "closed session" was cancelled.

The meeting adjourned at 11:38 a.m.

Dated: December 28, 2006

Respectfully submitted,

_____
Elaine Hufnagle
Legal Assistant

Approved by:

_____
Liane Randolph
Chairman